

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION**

IN RE:

**Nathan Ryan Sawyer,
Debtor(s)**

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**CASE NO. 18-50248
CHAPTER 13**

**OBJECTION TO CONFIRMATION BY BOKF, N.A., A NATIONAL BANKING
ASSOCIATION D/B/A FIRSTLAND MORTGAGE SERVICING, ITS ASSIGNEES AND/OR
SUCCESSORS**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Comes now BOKF, N.A., A NATIONAL BANKING ASSOCIATION D/B/A FIRSTLAND MORTGAGE SERVICING, ITS ASSIGNEES AND/OR SUCCESSORS, (collectively referred to as "Creditor"), a secured creditor and party in interest, and pursuant to 11 U.S.C. §§1322(b)(2), 1322(b)(5), 1324 and 1325(a)(5), and Bankruptcy Rule 3015(f) files its *Objection to Confirmation* of Debtor's proposed Amended Chapter 13 Plan filed on 9/25/2018 at Docket No. 12 ("Plan"), and in support thereof would respectfully show the Court as follows:

BACKGROUND

1. Debtor filed a voluntary petition under Chapter 13 of Title 11, United States Bankruptcy Code on 9/1/2018.

2. BOKF, N.A., A NATIONAL BANKING ASSOCIATION D/B/A FIRSTLAND MORTGAGE SERVICING, ITS ASSIGNEES AND/OR SUCCESSORS, is the holder of a Note ("Note") in the original principal sum of \$62,840.00, dated 7/1/2014, which was executed by Nathan Sawyer to

Primewest Mortgage Corporation. The Note is secured by a Deed of Trust granting a lien against real estate located at:

LOT TWENTY-ONE (21), BLOCK TWO (2), PARK LAWN, AN ADDITION TO THE CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS, ACCORDING TO THE MAP, PLAT AND/OR DEDICATION DEED THEREOF RECORDED IN VOLUME 409, PAGE 49 OF THE DEED RECORDS OF LUBBOCK COUNTY, TEXAS

commonly known as 2504 42nd St, Lubbock, TX 79413 ("Property"). Copies of the Note and Deed of Trust are attached to Creditor's proof of claim on file in this case.

3. The total debt due and owing to Creditor as of the Petition Date was \$68,111.73 as evidenced by Creditor's secured proof of claim ("Proof of Claim") filed by Creditor. Debtor(s) have not objected to the amount stated as owing to Creditor in Creditor's Proof of Claim.

OBJECTION TO PROPOSED PLAN

4. Creditor objects to confirmation of the Plan because the Plan only proposes to pay \$6,493.00 in pre-petition arrears. Creditor is entitled to full payment of its secured pre-petition arrearage claim in the amount of \$10,948.60 pursuant to the Note and Deed of Trust. Creditor therefore objects to the proposed treatment of its secured claim.

5. As the arrears listed for Creditor are understated, the Chapter 13 Plan may not be feasible.

6. Further, Creditor objects to confirmation of the Plan because the ongoing post-petition monthly payment amount listed is incorrect. The Plan lists the ongoing post-petition mortgage payment amount to be disbursed by the Trustee as \$560.00. However, the correct ongoing post-petition monthly payment amount is \$682.85.

7. Creditor has had to retain counsel to represent it before this Court and is incurring legal expenses and attorneys' fees for the handling of this *Objection to Confirmation*.

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WHEREFORE, PREMISES CONSIDERED, Creditor prays that this Court deny confirmation of the Plan as proposed, award attorneys' fees and costs, and grant Creditor such other and further relief, at law and in equity, as is just.

Respectfully Submitted,

McCARTHY & HOLTHUS, LLP

/s/ Yoshie Valadez

Yoshie Valadez SBN 24091142

Carlos Hernandez-Vivoni SBN 24096186

1255 West 15th Street Suite 1060

Plano, TX 75075

Phone: (214) 291-3800

Fax: (214) 291-3801

Atty File No.: TX-18-20067

ATTORNEYS FOR CREDITOR

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *Objection to Confirmation* has been served upon the following parties via electronic means through the Court's CM/ECF system or by pre-paid regular first class U.S. Mail on 9/25/2018.

By: /s/ Yoshie Valadez
Yoshie Valadez SBN 24091142
Carlos Hernandez-Vivoni SBN 24096186
1255 West 15th Street Suite 1060
Plano, TX 75075
Phone: (214) 291-3800
Fax: (214) 291-3801
Atty File No.: TX-18-20067
ATTORNEY FOR CREDITOR

By First Class Mail Postage Prepaid:

DEBTOR(S)
Nathan Ryan Sawyer
2504 42nd St
Lubbock, TX 79413

By CM/ECF:

COUNSEL FOR DEBTOR(S)
Seth Crosland
Crosland Law Firm, PLLC
1848 Norwood Plaza
Suite 205B
Hurst, TX 76054

TRUSTEE
Robert B. Wilson
1407 Buddy Holly Ave
Lubbock, TX 79401

U.S. TRUSTEE
US Trustee

1100 Commerce Street
Room 976
Dallas, TX 75242

All Parties Requesting Notice Via CM/ECF System